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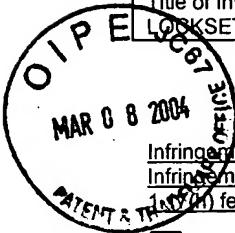
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TRANSMITTAL LETTER			Case No. 5658/934
Serial No. 10/629,959	Filing Date July 30, 2003	Examiner Not Yet Assigned	Group Art Unit 3722
Inventor(s) David J. Trettin, Richard M. Davidian, Laverne Durfee, and Kristofor M. Hallee			
Title of Invention LOCKSET DRILLING GUIDE			



TO THE COMMISSIONER FOR PATENTS

Transmitted herewith are Transmittal Letter (in duplicate); Petition to Make Special Under CFR § 1.102(d) Based on Infringement as Defined in MPEP 708.02 (II); Declaration in Support of Petition to Make Special Under CFR § 1.102(d) Based on Infringement as Defined in MPEP 708.02 (II); Copy of Preliminary Amendment filed March 03, 2004; Check for \$130.00 for Petition 1.17(h) fee; and postcard evidencing receipt of same.

Small entity status of this application under 37 CFR § 1.27 has been established by verified statement previously submitted.

Applicant claims small entity status. See 37 CFR 1.27.

Petition for a \_\_\_\_\_ month extension of time.

No additional fee is required.

The fee has been calculated as shown below:

		Small Entity		Other Than Small Entity	
		Rate	Add'l Fee	Rate	Add'l Fee
Total	Claims Remaining After Amendment	x \$9=		x \$18=	
Indep.	Minus	x 42=		x \$84=	
First Presentation of Multiple Dep. Claim		+\$140=		+\$280=	
		Total add'l fee	\$	Total add'l fee	\$

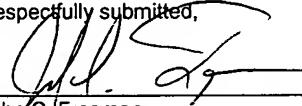
Please charge Deposit Account No. 23-1925 (BRINKS HOFER GILSON & LIONE) in the amount of \$\_\_\_\_\_. A duplicate copy of this sheet is enclosed.

A check in the amount of \$130.00 to cover the petition 1.17 (h) fee is enclosed.

The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this communication or credit any overpayment to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

I hereby petition under 37 CFR § 1.136(a) for any extension of time required to ensure that this paper is timely filed. Please charge any associated fees which have not otherwise been paid to Deposit Account No. 23-1925. A duplicate copy of this sheet is enclosed.

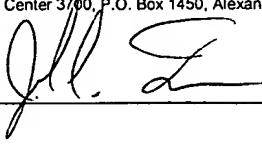
Respectfully submitted,

  
John C. Freeman  
Registration No. 34,483  
Attorney for Applicant  
Customer No. 00757 - Brinks Hofer Gilson Lione

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to:  
Commissioner for Patents, Attn: Special Program Examiner in Technology Center 3700, P.O. Box 1450, Alexandria, VA 22313-1450, on March 3, 2004.

Date: March 3, 2004

Signature: 



**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope, with sufficient postage, addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

March 3, 2004

Date of Deposit

John C. Freeman, Reg. No. 34,483

Name of Applicant, Assignee or  
Registered Representative

Signature

March 3, 2004

Date of Signature

Our Case No.: 5658/934

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Trettin et al.

Examiner: Not Yet Assigned

Serial No.: 10/629,959

Group Art Unit No.: 3722

Filing Date: July 30, 2003

For: LOCKSET DRILLING GUIDE

**PETITION TO MAKE SPECIAL UNDER 37 CFR § 1.102(d) BASED ON  
INFRINGEMENT AS DEFINED IN MPEP 708.02 (II)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Attn: Special Program Examiner in Technology Center 3700

Dear Sir:

This is a Petition to make the above-identified application special under 37 C.F.R. § 1.102(d) based on actual infringement under the guidelines of M.P.E.P. § 708.02 (II).

In support of the Petition to Make Special, I have included herewith a Declaration containing a statement asserting that:

- (A) There is an infringing device actually on the market;
- (B) A rigid comparison of the infringing device with the claims of the application as being concurrently filed in a Preliminary Amendment (copy attached) for the above-identified application has been made, and that in my opinion, some of the claims of the application are unquestionably infringed; and
- (C) A careful and thorough search of the prior art has been made.

Applicants have made the references from the search of record in this application in an Information Disclosure Statement and form PTO-1449 that were filed on October 30, 2003 and support this Petition to Make Special Under 37 C.F.R. § 1.102 (d). It is believed that all of the claims now presented in the above-identified application as amended by the concurrently filed Preliminary Amendment are allowable.

The Commissioner is requested to make the application special so that infringement of the Assignee's rights in one or more of the pending claims can be enjoined at an early stage, before the sales and investments of the infringers or potential infringers will have risen to a level at which they will have an interest in prolonging infringement, and before the present Assignee's market position has been irreparably damaged. It can be appreciated that, at an early stage, with less time and money invested in a product, such infringers or potential infringers will be less disposed to engage in litigation. As a result, the sooner the examination is concluded, the better position the Assignee will be in to fully protect its interests, and at less cost to all.

It is therefore very important to the Assignee that prosecution of the above-identified application be expedited so that a patent for the present invention issues promptly, and consequently the infringement of the Assignee's rights in the invention be abated.

## CONCLUSION

The requirements of M.P.E.P. 708.02 (II), including actual infringement and allowability of the infringed claims, are met in this case. A check in the amount of \$130.00 for the Petition fee required under 37 C.F.R. §1.17(h) is attached. If an additional fee is due or if an overpayment of fees is made, please charge or credit any difference to our Deposit Account No. 23-1925, as appropriate.

Applicants assert that the present Petition satisfies the guidelines set forth in M.P.E.P. 708.02 (II). Applicants request that the Petition be granted and the application be examined substantively.

Respectfully submitted,



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John C. Freeman  
Registration No. 34,483  
Attorney for Petitioner  
Irwin Industrial Tool Company

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200



Our Case No.: 5658/934

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Trettin et al.

Serial No.: 10/629,959

Filing Date: July 30, 2003

For: LOCKSET DRILLING GUIDE

Examiner: Not Yet Assigned

Group Art Unit No.: 3722

**DECLARATION IN SUPPORT OF PETITION TO MAKE SPECIAL UNDER 37 CFR  
§ 1.102(d) BASED ON INFRINGEMENT AS DEFINED IN MPEP 708.02 (II)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

I, John C. Freeman, declare as follows:

1. I am an attorney registered to practice before the United States Patent and Trademark Office. My Registration Number is 34,483. I am the attorney for the Assignee, Irwin Industrial Tool Company, of the above-identified application.

2. I am aware of a device actually on the market that infringes one or more claims of the above-mentioned patent application. The device and its operation are described below:

a. As shown in the photographs attached hereto in the Appendix, the infringing device includes a frame A that is mountable on a door. The frame A defines an opening B and includes a first flange C and a second flange D mounted perpendicular to the first flange C. A positioning member E of the frame A is removably mountable on the first flange C. The positioning member E is mountable on the first flange C in a first position 1, shown in Photographs 1, 2, and 4 and in a second position 2 shown in Photograph 5. The opening B is

located within the circular rim of positioning member E. The opening B remains in the same plane defined by the flange C when the positioning member E is in the first position 1 and in the second position 2. The positioning member E laterally displaces the opening B when the positioning member E is moved from the first position 1 to the second position 2 and vice versa. Note that the positioning member E moves independent of movement by the flange D. The frame A is coupled to a similar frame K via a cog wheel G. As shown in Photograph 1, a flange L of the frame K is inserted into a portion of the second flange D while a second portion of the flange D is inserted into a portion of the flange L. The inserted portions of flanges D and L include ridges M that are engaged by the cog wheel G.

b. In use, the frames A and K are mounted onto a door F. The door includes a first planar face I and a second planar face J. The frames A and K are positioned so that the door is positioned between the frames as shown in Photographs 2-5. The frames A and K are positioned and clamped onto the door F using the circular cog wheel G that is coupled to the frame A and the second frame K. In particular, separation between the frames A and K is adjusted to fit the door F by rotating the circular cog wheel G or moving the frames A and K relative to one another. The cog wheel G ensures that an opening of the cog wheel G is centered relative to the second planar face J.

After the frames A and K engage the door, the frames A and K are secured to the door F using a slide lock H that slides laterally with respect to the flange D to secure the frame in position on the door, as shown in Photograph 3. The first flange C lies adjacent and parallel to the first planar face I of the door F and the second flange D lies adjacent and parallel to the second planar face J of the door F.

The orientation of the opening B with respect to the edge of face J is determined before the frame A is mounted on the door F. Based on this determination, the positioning members of the frames A and K may need to be adjusted. For example, suppose the frame A is mounted on the door F with the positioning member E mounted to/attached to the first flange C in the first

position 1 for forming the opening B as shown in Photograph 4, but the opening B is not positioned correctly. In this case, the infringing device is removed from the door and the positioning members of the frames A and K are removed from the frames and rotatively moved so that appendage N is rotated by 180° and the positioning members are attached to the frames A and K as shown in Photograph 5. In the alternative, the user may notice prior to mounting the infringing device to the door that the opening B of the positioning member E would not be properly aligned with respect to the determined orientation of the opening. In this case, the positioning members of the frames A and K are removed from the frames and rotatively moved so that appendage N is rotated by 180° and the positioning members are attached to the frames A and K in the proper orientation.

During either of the above described adjustment processes, opening B has been laterally displaced within a plane parallel to the face J. In Photograph 5, the frame A is mounted on the door F with the positioning member E mounted on the first flange C in the second position 2. The opening B remains in the same plane on the door B in the first position 1 or the second position 2. When the frame A is mounted on the door F, the opening B is aligned with the desired position for a hole to be formed in the door F. A drill may be inserted into the opening B to form a hole in the face J of the door F. Similarly, a drill may be inserted into the opening of the cog wheel G to form a hole in the face I of the door F.

3. I have made a rigid comparison of the infringing product with the claims in the Preliminary Amendment of the above-identified application leading to the conclusion that at least some of the claims would unquestionably be infringed, if those infringed claims were contained in an issued U.S. patent.

4. A careful and thorough search of the prior art has been made. The results of the search are listed in an Information Disclosure Statement and form PTO-1449 that were filed on October 30, 2003, in this application. I have a good knowledge of the pertinent prior art reported in the Information Disclosure Statement and it is my opinion

that the claims of the Preliminary Amendment are patentable over the art cited in the search report.

5. I declare that all statements made of our my knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the above applications or any patent granted thereon.

March 3, 2004

Date



John C. Freeman  
Reg. No. 34,483

## APPENDIX

